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Oceania Towel & Linen Service, Inc. and Union of Needletrades, Industrial and Textile Employees, AFL-CIO-CLC. Case 29-CA-24552

September 26, 2002

DECISION AND ORDER

BY MEMBERS LIEBMAN, COWEN, AND BARTLETT

The General Counsel seeks summary judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed by Union of Needletrades, Industrial and Textile Employees, AFL-CIO-CLC (the Union) on October 23, 2001, the General Counsel issued the complaint on January 28, 2002, against Oceania Towel & Linen Service, Inc., the Respondent, alleging that it has violated Section 8(a)(1) of the Act. The Respondent failed to file an answer.

On March 25, 2002, the General Counsel filed a Motion for Summary Judgment with the Board. On March 28, 2002, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter and facsimile transmission dated February 13, 2002, notified the Respondent that unless an answer was received by February 15, 2002, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a domestic corporation with its principal office and place of business located at 1449 Richmond Terrace, Staten Island, New

York, has been engaged in providing industrial laundry services to other entities.

During the 12-month period preceding the issuance of the complaint, the Respondent, in the course and conduct of its business operations, purchased and received at its Staten Island facility, textiles, goods, products, and materials worth in excess of \$50,000 directly from other enterprises, including Zecron Textiles, Inc. and O.K. Uniforms, Inc., which entities are directly engaged in interstate commerce. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act, and agents of the Respondent acting on its behalf:

Todd Pincus	President
Angelo Cruz	Manager

On about October 17, 2001, the Respondent, by Pincus and Cruz, at a deli located across the street from the Respondent's facility, in the presence of employees:

- (1) threatened employees and union organizers with physical harm;
- (2) disparaged and uttered profanities at union organizers;
- (3) kicked a door off its hinges in the direction of union organizers; and
- (4) attempted to assault union organizers with lead pipes.

CONCLUSION OF LAW

By the acts described above, the Respondent has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(1) of the Act, we shall order the Respondent to post at its place of business for 60 days a notice to employees stating that it will not (a) threaten employees and union organizers

with physical harm; (b) disparage and utter profanities at union organizers in the presence of employees; (c) kick a door off its hinges in the direction of union organizers in the presence of employees; and (d) attempt to assault union organizers with lead pipes in the presence of employees.

ORDER

The National Labor Relations Board orders that the Respondent, Oceania Towel & Linen Service, Inc., Staten Island, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening employees and union organizers with physical harm.

(b) Disparaging and uttering profanities at union organizers in the presence of employees.

(c) Kicking a door off its hinges in the direction of union organizers in the presence of employees.

(d) Attempting to assault union organizers with lead pipes in the presence of employees.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facility in Staten Island, New York, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 17, 2001.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a re-

sponsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. September 26, 2002

Wilma B. Liebman, Member

William B. Cowen, Member

Michael J. Bartlett, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated the Federal labor law and has ordered us to post and obey by this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist any union

Chose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT threaten our employees and union organizers with physical harm.

WE WILL NOT disparage and utter profanities at union organizers in the presence of employees.

WE WILL NOT kick a door off its hinges in the direction of union organizers in the presence of employees.

WE WILL NOT attempt to assault union organizers with lead pipes in the presence of employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

OCEANIA TOWEL & LINEN SERVICE, INC.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."